

UNIFORM RULES OF COURT
SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN

**Chapter IX. Court Communication Protocol for Domestic Violence and
Child Custody Orders** (Adopted 1/1/06)

This rule provides for a protocol that is adopted in conformity with California Rules of Court, Rule 5.500 and Penal Code Section 136.2. For the purposes of this rule, the following definitions apply: (Effective 1/1/06)

- (a) “Criminal court protective order” (hereafter CPO) means any court order issued under California Penal Code Section 136.2 arising from a complaint, an information, or an indictment in which the victim or witness and the defendant have a relationship as defined in California Penal Code Section 13700. (Effective 1/1/06)
- (b) “Court” means all divisions of the Superior Court of the County of Kern. (Effective 1/1/06)
- (c) “Civil court” means any court that issues custody and visitation orders, specifically including but not limited to Juvenile, Family Law, and Probate. (Effective 1/1/06)
- (d) “Cases involving child custody and visitation” include Family Law (dissolutions, legal separations, nullities, Domestic Violence Prevention Act, parentage, petitions for custody and support, domestic partnership actions, child support matters where custody or visitation is an issue, and any other Family Law matters related to custody or visitation), Juvenile, and Probate guardianship proceedings. (Effective 1/1/06)

The purpose of this rule is to set forth a protocol to accomplish the following:
(Effective 1/1/06)

- (aa) For the courts to share information about the existence and terms of CPOs and other orders regarding child custody and visitation that involve the defendant and the victim or witness named in the CPO. (Effective 1/1/06)
- (bb) For courts hearing cases involving child custody and visitation to take every action practicable to ensure that they are aware of the existence of any CPO involving the parties to the action currently before them. (Effective 1/1/06)
- (cc) For criminal courts to take every action practicable to ensure that they are aware of the existence of any child custody or visitation court orders involving the defendant in the action currently before them. (Effective 1/1/06)

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- (dd) For the courts to permit appropriate visitation between a criminal defendant and his or her children pursuant to civil court orders, but at the same time provide for the safety of the protected person by ensuring that a CPO is not violated. (Effective 1/1/06)

Rule 9.1 Court Communication - Notification of Overlapping Cases (Effective 1/1/06)

The courts shall make reasonable efforts, subject to available resources, to determine the existence of any other cases involving a CPO or custody and/or visitation orders regarding a child or party who is involved in an action before the court. If the court becomes aware of the existence of any other case involving the same child or party before the court, subject to available resources, the court clerk in the case before the court shall inform the court in the other overlapping case of the existence of the case before the court. (Effective 1/1/06)

Rule 9.2 Requirements of Civil Courts Issuing Custody and Visitation Orders (Effective 1/1/06)

Rule 9.2.1 Inquiry By the Court (Effective 1/1/06)

Prior to issuing custody or visitation orders, the Civil Courts should inquire whether there are any CPOs in any court that involve the parties or the children of the parties. (Effective 1/1/06)

Rule 9.2.2 Data Base Review (Effective 1/1/06)

The Civil Courts, prior to issuing any order involving custody or visitation, shall make reasonable efforts , subject to available resources, through use of national, state, or local databases or by any other means legally available, to determine if a civil restraining order or CPO exists for any party to the action. If such orders exist, the court should make reasonable efforts, subject to available resources, to obtain those orders prior to making any custody and visitation orders in the case before the Kern County Court. (Effective 1/1/06)

Rule 9.2.3 Family Court Services (Effective 1/1/06)

Family Court Services shall make reasonable efforts, subject to available resources, to determine if a CPO exists involving any of the parties in cases where the Civil Court has ordered that a child custody or guardianship investigation be performed by Family Court Services. The result of such searches shall be conveyed to the Court in the Family Court Services' report. Although the Court may exclude criminal background checks from investigation orders, Family Court

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Services will report to the Court any CPO it discovers through the process of the investigation. (Effective 1/1/06)

Rule 9.2.4 Custody and Visitation Orders Issued Subject to a CPO (Effective 1/1/06)

If a Criminal Court that has issued a CPO authorizes the Civil Court to issue an order that permits contact between an restrained person subject to a CPO and a protected person, for the purpose of permitting custody and visitation between the restrained person and his or her children, such Civil Court order shall be specific.

It shall contain language setting forth the specific schedule for the contact and the safe exchange of the children, including the time, day, place, and manner of the transfer of the child. Such an order shall not contain language that conflicts with a CPO that provides for no contact with, or limits access to, the other parent. (Effective 1/1/06)

Rule 9.2.5 Civil Courts Transmitting Temporary and Permanent Restraining Orders and Modifications (Effective 1/1/06)

Subject to available resources, when a Civil Court issues custody and visitation orders for a minor child of the parties, and the Civil Court is aware that one of the parties has a criminal case involving a CPO, the court's clerk shall inform the Criminal Court of the custody and visitation order issued. (Effective 1/1/06)

Rule 9.3 Requirements of Criminal Courts Issuing CPOs (Effective 1/1/06)

Rule 9.3.1 Inquiry By the Court (Effective 1/1/06)

When the Criminal Court intends to issue a CPO protecting the victim(s), the Criminal Court may inquire, for the purpose stated in this rule, whether there are any children of the relationship between the defendant and the protected person. (Effective 1/1/06)

Rule 9.3.2 Data Base Review (Effective 1/1/06)

If there are any minor children of the parties, the Criminal Court may make reasonable efforts, subject to available resources, to determine if a CPO exists for any party to the action, or whether there exists any custody and/or visitation orders for the children of the parties. A data base review to determine this information may be conducted through use of national, state, or local databases, or by any other means legally available. (Effective 1/1/06)

Rule 9.3.3 Custody and Visitation Orders Issued Subject to a CPO (Effective 1/1/06)
A Criminal Court that issues a CPO may permit appropriate contact between a

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criminal defendant subject to a CPO and the protected person in order to allow Civil Court-ordered visitation between a criminal defendant and his or her children. If the Criminal Court permits such contact between the restrained and protected persons, the order for contact shall be indicated on the Judicial Council form entitled Protective Order in Criminal Proceeding (CLETS) and shall comply with the requirements of Penal Code Section 136.2(j)(1) and (2). A CPO takes precedence over any civil order that has been issued at any time. (Effective 1/1/06)

Rule 9.3.4 Criminal Courts Transmitting CPOs and Modifications (Effective 1/1/06)

When the Criminal Court issues or modifies a CPO in cases where there are minor children of the parties, the issuing court's clerk shall inform any other court that has issued orders for custody and visitation of the existence of the CPO or modification. (Effective 1/1/06)

Rule 9.4 Modification of Criminal Protective Orders (Effective 1/1/06)

Rule 9.4.1 Intended Use of This Rule (Effective 1/1/06)

This rule is intended to apply to situations in which a custody or visitation order has been issued in the Civil Court which creates a conflict with an existing CPO or where a party wishes to seek from a Civil Court an order for custody and/or visitation which would create a conflict with an existing CPO. (Effective 1/1/06)

Rule 9.4.2 Restrained Person's Procedure to Request Modification of the CPO (Effective 1/1/06)

If a person restrained by a CPO has obtained or intends to obtain an order from the Civil Court for custody of or visitation with a minor child of the parties, in conflict with the CPO, the restrained person must first seek a modification of the CPO from the Criminal Court. The Criminal and Civil Courts may consult regarding any modification. After the hearing, if any modifications of the CPO are made by the Criminal Court, the issuing Criminal Court's clerk shall inform any other court that has issued orders for custody and visitation or that has jurisdiction over custody and visitation of the children. (Effective 1/1/06)

Rule 9.5 Requirements of Penal Code Section 136.2(j)(1) and (2) (Effective 1/1/06)

A Civil Court order may coexist with a CPO subject to the following conditions: (Effective 1/1/06)

- (a) Any order that permits contact between the restrained person and his or

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her children shall provide for the safe exchange of the children and shall not contain language either printed or handwritten that violates a “no contact order” issued by the Criminal Court. (Effective 1/1/06)

- (b) Safety of all parties shall be the court’s paramount concern. The Civil Court shall specify the time, date, place, and manner of transfer of the child as provided in Family Code Section 3100. (Effective 1/1/06)